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January 29, 1997

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Secretary
Federal Communications Commission
1919 M Street, Room 222
Washington, D. C. 20554

In the Matter of

Access Charge Reform

Price Cap Performance Review for Local Exchange Carriers

Transport Rate Structure and Pricing

Usage of the Public Switched Network by Information Service and Internet Access Providers

CC Docket No. 96-262

CC Docket No. 94-1

CC Docket No. 91-213

CC Docket No. 96-263

The accompanying comments, prepared by John Staurulakis, Inc. (JSI), are in response to the Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, FCC 96-488, released on December 24, 1996, in the above-referenced dockets.

Any questions concerning this filing may be directed to JSI.

Sincerely,

Michael B. Fox

Michael S. Fox
Director, Regulatory Affairs

Enclosures

cc: International Transcription Services, 2100 M Street, Suite 246

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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by Information Service and Internet)	
Access Providers)	

Comments of John Staurulakis, Inc.

John Staurulakis, Inc. ("JSI") hereby files comments in the above-referenced dockets.¹ JSI is a consulting firm specializing in management, financial and regulatory services to more than one hundred and fifty Independent Telephone Companies throughout the United States. JSI assists these companies in the preparation and submission of jurisdictional cost studies and Universal Service Fund ("USF") data to the National Exchange Carrier Association ("NECA"), and routinely prepares and files tariffs with the Federal Communications Commission ("Commission") on behalf of a number of these client companies. The proposals and questions raised in the Notice will affect the jurisdictional cost recovery and access revenues of its client companies. Furthermore, while the Commission is limiting the scope of most issues in this proceeding to

¹ See In the Matter of Access Charge Reform, CC Docket No. 96-262, Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, Transport Rate Structure and Pricing, CC Docket No. 91-213, Usage of the Public Switched Network by Information Service and Internet Access Providers, CC Docket No. 96-263, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, FCC 96-488, released December 24, 1996 ("NPRM" or "Notice").

incumbent local exchange carriers ("LECs") subject to price cap regulation. [Notice at 50], decisions made in this proceeding will both directly and indirectly impact incumbent LECs. Therefore, JSI is an interested party in this proceeding.

The actions taken under this proceeding will develop new Part 69 access charge rules and regulations for LECs under current price cap regulation. In the Notice, the Commission acknowledges that companies under rate-of-return regulation are not adequately treated in this proceeding and that an additional proceeding will be forthcoming regarding these LECs. However, JSI feels that it is important to highlight the salient rural LEC issues. While more than 92% of the access lines in the United States are provided by price cap LECs, a significant portion of the high-cost, rural and insular areas of the Nation are served by rate-of-return carriers. Also, customers in these high-cost areas will be both directly and indirectly affected by the decisions made in this proceeding, as the introduction of competition in urban areas will inevitably flow to rural areas. Furthermore, since the rate-of-return carriers constitute only a small fraction of all access lines, it is not likely that a specific proceeding for rate-of-return carriers will occur in a timely manner; nor before the benefits of regulatory reform are realized in rural areas.

I. Local Interconnection, Universal Service, and Access Reform are Inextricably Linked

Recent proceedings undertaken by the FCC have dealt with a variety of interrelated issues: namely, local interconnection and competition, universal service support mechanisms, and the current access reform proceeding. These proceedings constitute what has been termed the trilogy of local competition. The notion of a trilogy,

or tripod, demonstrates the interrelated nature of each component. The most important aspect of a tripod is that each leg be balanced with the other legs. Without this balance, the tripod becomes unstable and is likely to fall. Universal service, access charge reform, and local interconnection policies similarly need to be balanced.

Congress recognized that the market characteristics which exist in rural areas are less accommodating to local competition than those in the urban areas served by larger LECs. In the Telecommunications Act of 1996² (the “1996 Act”), Congress crafted specific provisions to ensure that areas served by rural carriers would receive separate treatment. [1996 Act at §251(f)]. Congress’ intent to promote competition appears to be predicated upon the concept that multiple facilities-based providers are the most desirable form of local exchange competition. However, Congress realized that areas served by rural carriers may still be best served by a single provider under regulatory oversight. Congress codified this realization in the 1996 Act when it gave state commissions specific authority to determine if it is the public interest, convenience, and necessity to allow more than one eligible telecommunications carrier into an area served by rural carriers. [1996 Act at §214(e)(2)]. Prior to a specific finding by a state commission, the presumption granted by Congress is that rural carriers still operate in a market characterized as a natural monopoly for wireline service; as such, special provisions are required because multiple-service-provider competition is inefficient and contrary to the public interest in this type of market.

² See Telecommunications Act of 1996, Pub. L. No. 104-104, Stat. 56 (1996) (to be codified at 47 U.S.C. sections 151 et seq.).

It is precisely the interrelated nature of these three related proceedings that has caused JSI to be concerned by the treatment of rural LECs and the potentially harmful consequences of this treatment on customers served by these companies. It is difficult, indeed impossible, for rural LECs to effectively plan for future plant deployment, upgrades, and improvements without knowing the implications of all three elements of the Commission's trilogy as it pertains to the promotion of universal service policy. Since current access revenues represent as much as eighty percent (80%) of a rural LEC's revenues, the loss of even a small minority of high-volume customers could be devastating to universal service policy, as envisioned by the 1996 Act. [1996 Act at §254(b)]. This is particularly true for those remaining customers that do not have competitive alternatives. While we acknowledge that the Recommendation of the Joint Board for Universal Service has attempted to remedy the inconsistencies of existing implicit universal service supports by making them explicit, we are concerned that without a proper calibration of the various components of the trilogy, rural carriers, which are particularly vulnerable to radical changes in access charges, will not be able to continue the federally mandated service obligations to provide service to all customers in their designated serving area.

JSI notes the long legacy of actions by both the Commission and state regulatory authorities that have successfully used public policy to ensure universal service and support for rural customers, including the advancement of universal service policy in high-cost areas of the Nation. Unlike the price cap LECs, rural carriers by-and-large still operate under rate-base, rate-of-return regulation with oversight and regulatory controls. The existing regulatory relationship that rural LECs have, which is different from the

experience of the price cap LECs, is a necessary regulatory contract with the state regulatory authorities and the Commission. Rural telephone companies rely heavily upon explicit high-cost assistance mechanisms, such as the interstate Universal Service Fund (USF). These companies also depend upon dial equipment minute (“DEM”) weighting, long-term support (“LTS”) payments, and other implicit supports in current access charges to ensure affordable local service rates and to maintain high-quality service in the rural areas they serve. Consistent with the provisions of the 1996 Act, it is important that the Commission ensure that the rules fashioned to promote universal service in the United States do in fact promote and not undermine universal service policy. Access charge reform decisions will have crucial universal service implications for rural LECs. If the Commission ultimately removes implicit universal service supports embedded within rural LECs’ access rates (*e.g.*, DEM weighting and LTS), then the 1996 Act requires that the reconstituted universal service fund must be structured to allow for sufficient, explicit recovery of these costs. [1996 Act at §254(b)(5)]. This necessarily requires that these policies work in concert and be calibrated to be implemented simultaneously so as not to cause irreparable harm to customers in rural and insular areas of the Nation.

Rural LECs largely operate on a rate-of-return regulatory foundation and, in exchange, have a multitude of service obligations imposed by state commissions in order to ensure that federal and state telecommunications policy is advanced in the most rural and isolated areas of the Nation. These obligations include the duty to serve all customers on a timely basis within a franchise area. Absent this regulatory contract, wireline universal service would cease to be a reality for many rural subscribers. JSI must respectfully note that these service obligations are tightly bound with the elements of rate

design. Furthermore, the obligations under rate-of-return regulation are different from those obligations for price cap, Tier I companies. Rate-of-return LECs have a unique set of cost and demand characteristics that have precluded them from electing the Commission's price cap plan. Unlike price cap LECs, rate-of-return LECs do not have the economies of scale and scope to sustain the year-over-year productivity gains inherent in the federal price cap scheme. This lack of sustainability to the price cap regime has forced smaller LECs to remain under a rate-of-return construct.

Some of the proposed recommendations within this Notice may alter the recovery mechanisms for rate-based regulated costs for rate-of-return LECs [*e.g.*, Notice at 53 and 65]. JSI submits that rural LECs should rely upon a mechanism that parallels its rate-based, rate-of-return rate design. This mechanism should remain in effect until rate-base, rate-of-return regulation, and its attendant service obligations, are removed and replaced with appropriate regulation for rural LECs similar to that experienced by the price cap LECs.

JSI therefore concurs in the Commission's decision to first address access charge reform as it relates to price cap companies. The decision to defer consideration of access charge reform for rate-base, rate-of-return companies until later in 1997 will enable the Commission to more carefully consider the unique characteristics of rural telephone companies and the areas they serve.

II. The Commission's Policy of Providing Support Only for the Primary Residential and Single-Line Business Customers is Contrary to the Public Interest and Will Harm Rural Economic Development.

In this Notice, the Commission apparently is proposing adoption of a policy proposed by the Federal-State Joint Board ("Joint Board") in its November 8, 1996 Recommended Decision on universal service.³ In that proceeding, the Joint Board proposed to limit universal service funding to primary residential and single-line business customers. [Recommended Decision at ¶¶89-92]. As JSI explained in our comments in that proceeding, this recommendation would cause the rates for residential second lines and business lines to increase. This increase could very well be quite substantial since the current rates in rural areas are typically far below the cost to provide service to these lines. [JSI at 20-21].

At paragraph 65 of the Notice, the Commission proposes to increase the subscriber line charge ("SLC") ". . . for the second and additional lines for residential customers and for all lines for multi-line business customers to the per-line loop costs assigned to the interstate jurisdiction." JSI strongly disagrees with this proposal. It would be contrary to the public interest for the Commission to implement such a policy for rate-of-return LECs. Rural telephone companies exhibit significantly different cost characteristics than do large price cap LECs. As a relative measure, the common line revenue requirement for rate-of-return LECs is much higher than for price cap LECs. For the Commission to implement a policy to require secondary residential and multi-line business customers to pay a SLC based upon the total per-line loop costs assigned to the

³ See In the Matter of Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45, Commission 96J-3, released November 8, 1996 ("Recommended Decision").

interstate jurisdiction could result in dramatic SLC increases for these customers. Such a policy would result in serious universal service and rural economic development harm.

JSI does not believe this policy is practicable or advisable. In addition to the significant impact noted above, this policy would also have unintended negative competitive implications. Such a policy will introduce significant, ill-advised, and unjustified competitive disruptions into the marketplace. Secondary residential and multi-line business customers will have an incentive to purchase lines from competitive local exchange carriers. This result is not consistent with pro-competition (as contrasted with pro-“competitor”) or universal service objectives of the 1996 Act. JSI also does not believe that such a consequence was intended by Congress when it enacted the 1996 Act.

Furthermore, dramatic increases in rural multi-line business and second line residential rates would result in a disincentive for industry and businesses to locate in rural America. If multi-line business and second line residential rates in rural communities are significantly higher than in urban communities, rural communities would be at a serious competitive disadvantage *vis-à-vis* their urban counterparts in competing for business and industry. As telecommunications becomes a rapidly increasingly critical element of doing business in the modern world, the cost of telecommunications continues to be a key factor in business location decisions.

The 1996 Act requires that consumers “. . . in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.” [1996 Act at

§254(b)(3)] (emphasis added). We do not believe that it was the intent of Congress to penalize rural customers that have multi-line business lines or have a desire for second lines to ensure access to the information age.

Finally, from a practical perspective, it will be extremely difficult, if not impossible, for any telephone company (particularly a rural telephone company) to obtain the residential subscriber information necessary to comply with this recommendation. For example, group residences will be very problematic. Current records often do not provide enough information for a telephone company to determine whether a second line to the same location is a secondary line for the same individual or a primary residence line for another household living at the same address. This will be particularly difficult in settings where group housing is common, such as college campuses. Similarly, telephone company records do not reveal if a residential line applies to a customer's primary or secondary residence.

III. Conclusion

JSI appreciates the opportunity to comment in this proceeding and encourages the Commission to keep the 1996 Act's universal service mandates clearly in mind as it moves forward with access charge reform. The principle of universally available, affordable telephone service, in all areas of the Nation, has long been accepted and supported throughout the telecommunications industry. The 1996 Act mandates that sufficient universal service support continue to be available even in light of the introduction of competition into local exchange telecommunications markets, as well as the reformation of the Commission's Part 69 access charge rules and regulations.

Respectfully submitted,

John Staurulakis, Inc.

By:

A handwritten signature in black ink, appearing to read "Michael S. Fox", written over a horizontal line.

Michael S. Fox

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